

### **304.29-101 Organization.**

A domestic society organized on or after January 1, 1989, shall be formed as follows:

- (1) Seven (7) or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:
  - (a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;
  - (b) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. The purposes shall not include more liberal powers than are granted by this subtitle; and
  - (c) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme governing body, which election shall be held not later than one (1) year from the date of issuance of the permanent certificate of authority.
- (2) The articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one (1) year shall be filed with the executive director, who may require further information. The bond with sureties approved by the executive director shall be in an amount, not less than three hundred thousand dollars (\$300,000) nor more than one million five hundred thousand dollars (\$1,500,000), as required by the executive director. All documents filed shall be in the English language. If the purposes of the society conform to the requirements of this subtitle and all provisions of the law have been complied with, the executive director shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members.
- (3) No preliminary certificate of authority granted under the provisions of this section shall be valid after one (1) year from its date or after such further period, not exceeding one (1) year, as may be authorized by the executive director upon cause shown, unless the five hundred (500) applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one (1) year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business.
- (4) Upon receipt of a preliminary certificate of authority from the executive director, the society may solicit members for the purpose of completing its organization,

shall collect from each applicant the amount of not less than one (1) regular monthly premium in accordance with its table of rates, and shall issue to each applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any benefit to any person until:

- (a) Actual bona fide applications for benefits have been secured on not less than five hundred (500) applicants, and any necessary evidence of insurability has been furnished to and approved by the society;
  - (b) At least ten (10) subordinate lodges have been established into which the five hundred (500) applicants have been admitted;
  - (c) There has been submitted to the executive director, under oath of the president or secretary, or corresponding officer of the society, a list of the applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted and premiums therefor; and
  - (d) It shall have been shown to the executive director, by sworn statement of the treasurer, or corresponding officer of the society, that at least five hundred (500) applicants have each paid in cash at least one (1) regular monthly premium, which premiums in the aggregate shall amount to at least one hundred fifty thousand dollars (\$150,000). The advance premiums shall be held in trust during the period of organization; and if the society has not qualified for a certificate of authority within one (1) year, the premiums shall be returned to the applicants.
- (5) The executive director may make examination and require further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the executive director shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to the provisions of KRS Chapter 304. The certificate of authority shall be prima facie evidence of the existence of the society at the date of the certificate. The executive director shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.
- (6) Any incorporated society authorized to transact business in this state at the time this subtitle becomes effective shall not be required to reincorporate.
- (7) No unincorporated or voluntary association shall be permitted to transact business in this state as a fraternal benefit society.

**Effective:** January 1, 1989

**History:** Created 1988 Ky. Acts ch. 310, sec. 10, effective January 1, 1989.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.